

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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ALICE JUNE MINCH, *Appellant*,

*v.*

ARIZONA STATE BOARD OF NURSING, et al., *Appellees*.

No. 1 CA-CV 17-0447  
FILED 5-22-2018

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Appeal from the Superior Court in Maricopa County  
No. LC2016-000342-001  
The Honorable Patricia A. Starr, Judge

**AFFIRMED**

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COUNSEL

Alice June Minch, Sun City  
*Appellant*

Arizona Attorney General's Office, Phoenix  
By Elizabeth A. Campbell  
*Counsel for Appellees*

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**MEMORANDUM DECISION**

Presiding Judge Kenton D. Jones delivered the decision of the Court, in  
which Judge Michael J. Brown and Judge Jon W. Thompson joined.

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JONES, Judge:

¶1 Alice Minch appeals the superior court's order upholding the revocation of her nursing license. For the following reasons, we affirm.

**FACTS AND PROCEDURAL HISTORY**

¶2 After investigating a September 2011 complaint of unprofessional conduct, the Arizona State Board of Nursing (the Board) found that discipline against Minch's nursing license was warranted and entered an order placing her license on probation. As relevant here, the January 2015 order required Minch to maintain her qualification to practice nursing in Arizona by timely renewing her license; "submit her license to be stamped '**PROBATION**'"; engage in psychological counseling until the Board was advised that treatment was no longer needed; advise any future employer of her probationary status and cause the employer to submit monthly performance evaluations; and obtain written permission from the California State Board of Nursing before working as a registered nurse in that state. The order further advised Minch of the Board's continuing jurisdiction to "revoke probation and take further disciplinary action for noncompliance with [probation] after affording [Minch] notice and the opportunity to be heard . . . until the matter is final." This Court affirmed the Board's order imposing probation in May 2017. *See generally Minch v. Ariz. State Bd. of Nursing (Minch I)*, 1 CA-CV 16-0152, 2017 WL 2125723 (Ariz. App. May 16, 2017) (mem. decision), *review denied* CV-17-0210-PR (Ariz. Dec. 12, 2017).

¶3 Meanwhile, in February 2016, the Board filed a complaint alleging Minch engaged in unprofessional conduct by violating each of the provisions of the order detailed above. At the March 2016 administrative hearing, the nurse responsible for monitoring Minch's compliance with the January 2015 order testified Minch's license expired April 1, 2013 and she had taken no action to renew it. Indeed, the nurse explained that Minch "ha[d] not fulfilled any conditions or exhibited any attempt to comply with the conditions" imposed by the order.

¶4 In April 2016, the administrative law judge (ALJ) issued a decision recommending the Board revoke Minch's registered nurse license. The Board adopted the ALJ's proposed order with only minor corrections and revoked Minch's nursing license. The Board denied Minch's request for rehearing, and the superior court affirmed the Board's order. Minch timely appealed, and we have jurisdiction pursuant to Arizona Revised

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Statutes (A.R.S.) §§ 12-120.21(A)(1),<sup>1</sup> -913, and -2101(A)(1). *See Svendsen v. Ariz. Dep't of Transp.*, 234 Ariz. 528, 533, ¶ 13 (App. 2014).

DISCUSSION

¶5 Minch first argues the Board lacked jurisdiction to revoke her license based upon conduct “occurring outside the purview of nursing.” Even if Minch were correct in her interpretation of the law, that is not what occurred.<sup>2</sup>

¶6 Here, the Board pursued revocation of Minch’s license based upon her failure to comply with the terms of the January 2015 order. The legislature has specifically authorized the Board to pursue discipline against a licensee who engages in unprofessional conduct, *see* A.R.S. §§ 32-1663(A), -1664(O), and has specifically defined unprofessional conduct to include “[f]ailing to comply with a stipulated agreement, consent agreement or board order,” A.R.S. § 32-1601(26)(i). The record reflects Minch failed to comply with the Board’s order. The Board clearly had jurisdiction to revoke Minch’s license under these circumstances, and we find no error.

¶7 Minch also argues the Board erred by allowing a “non-qualified” ALJ to participate in the proceedings. Specifically, Minch argues the ALJ was not an active member of the Arizona State Bar at the time of the hearing. She provides no evidence to support this assertion, but, regardless, the governing statute only requires an ALJ to “have graduated from an accredited college of law or . . . have at least two years of administrative or managerial experience in the subject matter or agency section the administrative law judge is assigned to.” A.R.S. § 41-

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<sup>1</sup> Absent material changes from the relevant date, we cite a statute’s current version.

<sup>2</sup> To the extent Minch challenges the circumstances and procedures surrounding the January 2015 order placing Minch’s license on probation, we note these issues could have been, or were, actually litigated and determined in *Minch I* and are not subject to further review. *See, e.g., Peterson v. Newton*, 232 Ariz. 593, 595, ¶ 5 (App. 2013) (explaining the doctrine of claim preclusion prevents a person from relitigating an issue “when a prior ‘judgment on the merits was rendered by a court of competent jurisdiction and the matter now in issue between the same parties or their privities was, or might have been, determined in the former action’”) (quoting *Hall v. Lalli*, 194 Ariz. 54, 57, ¶ 7 (1999)).

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1092.01(C)(3); *see also* A.R.S. § 32-1664(I) (providing for an administrative hearing on charges brought by the Board via the procedures outlined in A.R.S. §§ 41-1092 to -1092.12). Thus, an ALJ in an administrative appeal from a Board decision need not be an attorney at all, let alone an active member of the Arizona State Bar.

¶8 Finally, Minch argues the Board violated her due process rights and abused its discretion by relying upon a recommendation from an ALJ different from the one who presided over the hearing. This argument is not supported by the record, which reflects the same ALJ who presided over the March 2016 administrative hearing also authored the April 2016 recommendation. Accordingly, we find no factual basis for the assertion of error.

**CONCLUSION**

¶9 The superior court's order upholding the revocation of Minch's nursing license is affirmed.



AMY M. WOOD • Clerk of the Court  
FILED: AA